

# AFFORDABLE LEGAL SERVICES IN SOUTH AFRICA – WITH PARTICULAR REFERENCE TO 'ONE STOP SHOP' JUSTICE CENTRES AND THE ROLE OF PARALEGALS



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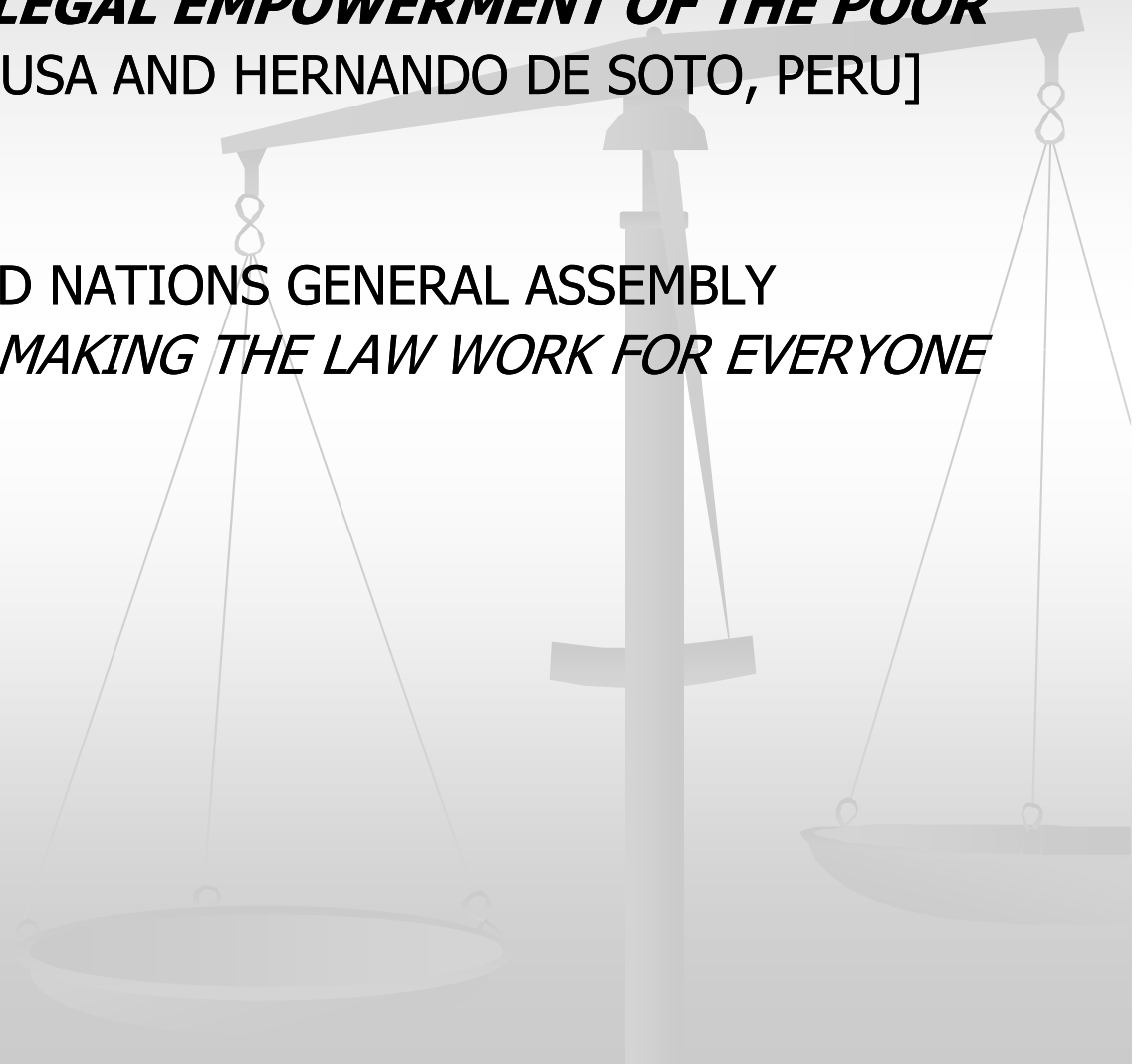
# INTRODUCTION



- UNITED NATIONS: LEGAL EMPOWERMENT OF THE POOR – THE BIGGER PICTURE
- WHAT IS MEANT BY LEGAL AID?
- WHAT ARE AFFORDABLE LEGAL AID SERVICES?
- DELIVERING LEGAL AID SERVICES THROUGH 'ONE STOP SHOP' JUSTICE CENTRES
- OTHER METHODS OF DELIVERING LEGAL AID SERVICES
- ROLE OF PARALEGALS IN PROVIDING AFFORDABLE LEGAL SERVICES

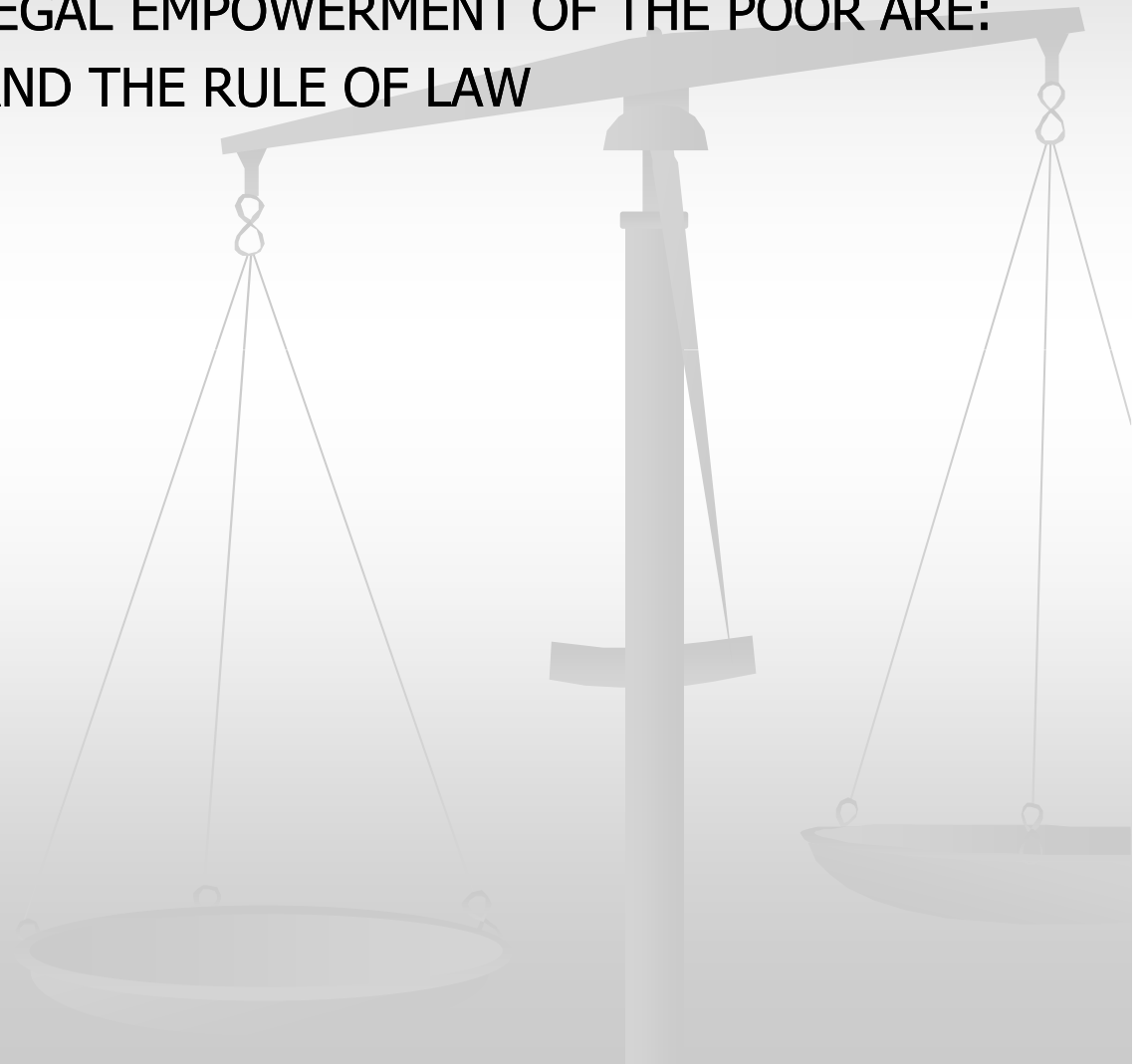
# BACKGROUND: UNITED NATIONS LEGAL EMPOWERMENT OF THE POOR COMMISSION – THE BIGGER PICTURE

- ***UN COMMISSION ON LEGAL EMPOWERMENT OF THE POOR***
- [MADELEINE ALBRIGHT, USA AND HERNANDO DE SOTO, PERU]
- ESTABLISHED IN 2005
- REPORTED IN 2008
- ADOPTED BY THE UNITED NATIONS GENERAL ASSEMBLY
- PUBLISHED AS A BOOK: *MAKING THE LAW WORK FOR EVERYONE (2009)*



# FOUR PILLARS OF LEGAL EMPOWERMENT OF THE POOR

- THE FOUR PILLARS OF LEGAL EMPOWERMENT OF THE POOR ARE:
- 1. ACCESS TO JUSTICE AND THE RULE OF LAW
- 2. PROPERTY RIGHTS
- 3. LABOUR RIGHTS
- 4. BUSINESS RIGHTS



# ACCESS TO JUSTICE AND RULE OF LAW



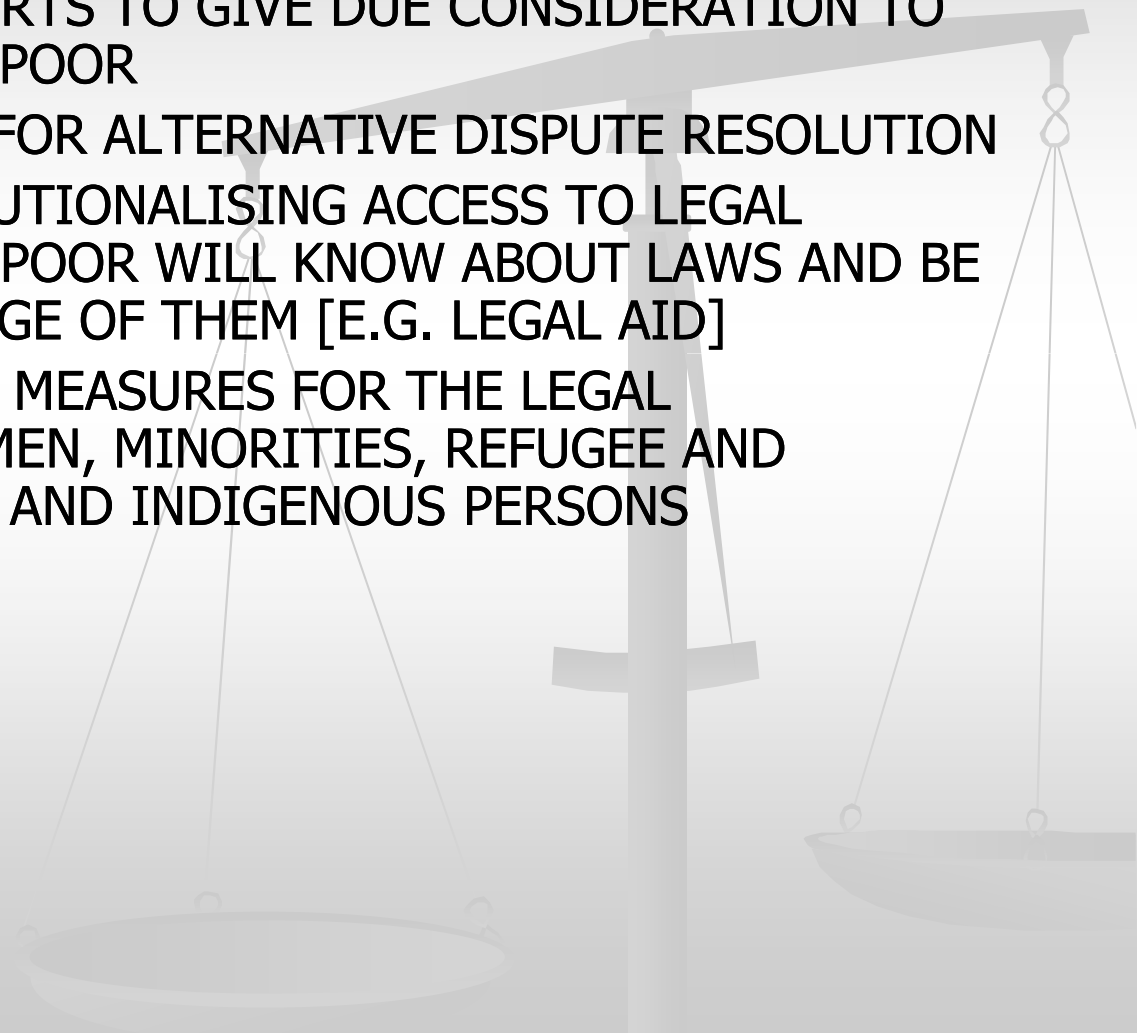
- FOUR BILLION PEOPLE EXCLUDED FROM RULE OF LAW
- ACCESS TO JUSTICE AND THE RULE OF LAW ARE THE CORNERSTONE OF ALL OTHER RIGHTS
- LEGAL EMPOWERMENT OF THE POOR IS IMPOSSIBLE IF PEOPLE ARE DENIED ACCESS TO A WELL FUNCTIONING JUSTICE SYSTEM
- JUST LAWS THAT ENSHRINE AND ENFORCE THE RIGHTS AND OBLIGATIONS OF SOCIETY HAVE IMMEASURABLE BENEFITS FOR ALL, ESPECIALLY THE POOR
- ENSURING EQUITABLE ACCESS TO JUSTICE, THOUGH FUNDAMENTAL PROGRESS, IS HARD TO ACHIEVE
- EVEN IF THE LEGAL SYSTEM IS TECHNICALLY INCLUSIVE AND FAIR, EQUAL ACCESS TO JUSTICE CAN ONLY BE REALIZED WITH THE COMMITMENT OF THE STATE AND PUBLIC INSTITUTIONS

# LEGAL EMPOWERMENT MEASURES

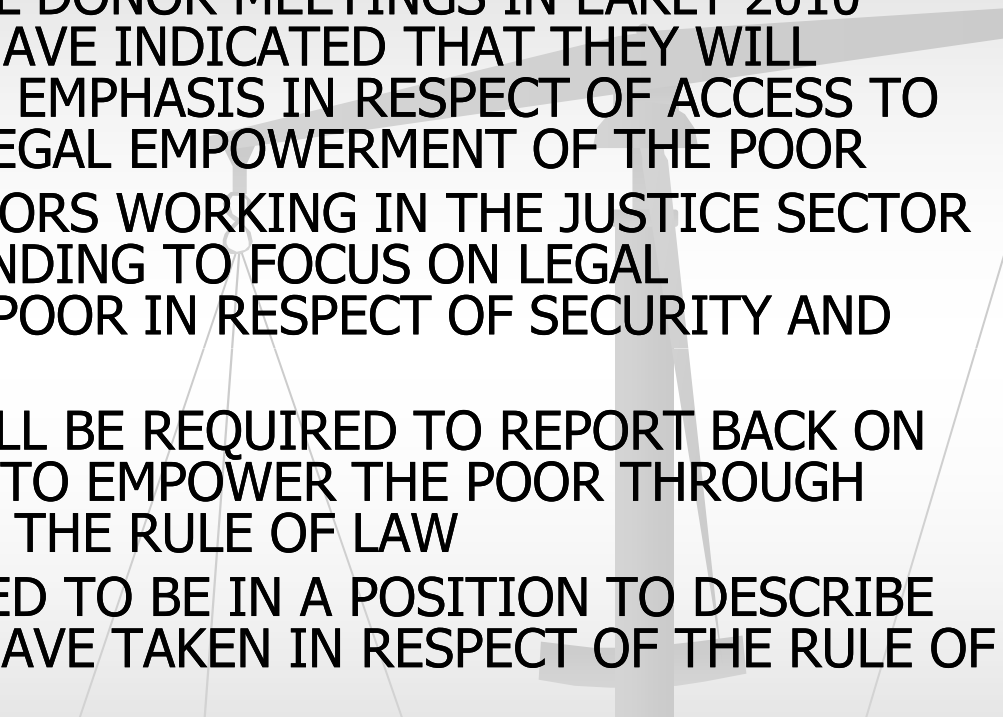
- LEGAL EMPOWERMENT MEASURES THAT STATES MUST TAKE INCLUDE:
  - REPEALING OR MODIFYING LAWS AND REGULATIONS THAT ARE BIASED AGAINST THE RIGHTS, INTERESTS AND LIVELIHOODS OF POOR PEOPLE
  - FACILITATING THE CREATION OF STATE AND CIVIL SOCIETY ORGANISATIONS AND COALITIONS, INCLUDING PARALEGALS WHO WORK IN THE INTERESTS OF THE EXCLUDED
  - MAKING THE FORMAL JUDICIAL SYSTEM, LAND ADMINISTRATION SYSTEM, AND RELEVANT PUBLIC INSTITUTIONS MORE ACCESSIBLE BY RECOGNIZING AND INTEGRATING CUSTOMARY AND INFORMAL LEGAL PROCEDURES WITH WHICH THE POOR ARE ALREADY FAMILIAR

# LEGAL EMPOWERMENT MEASURES (CONTINUED)

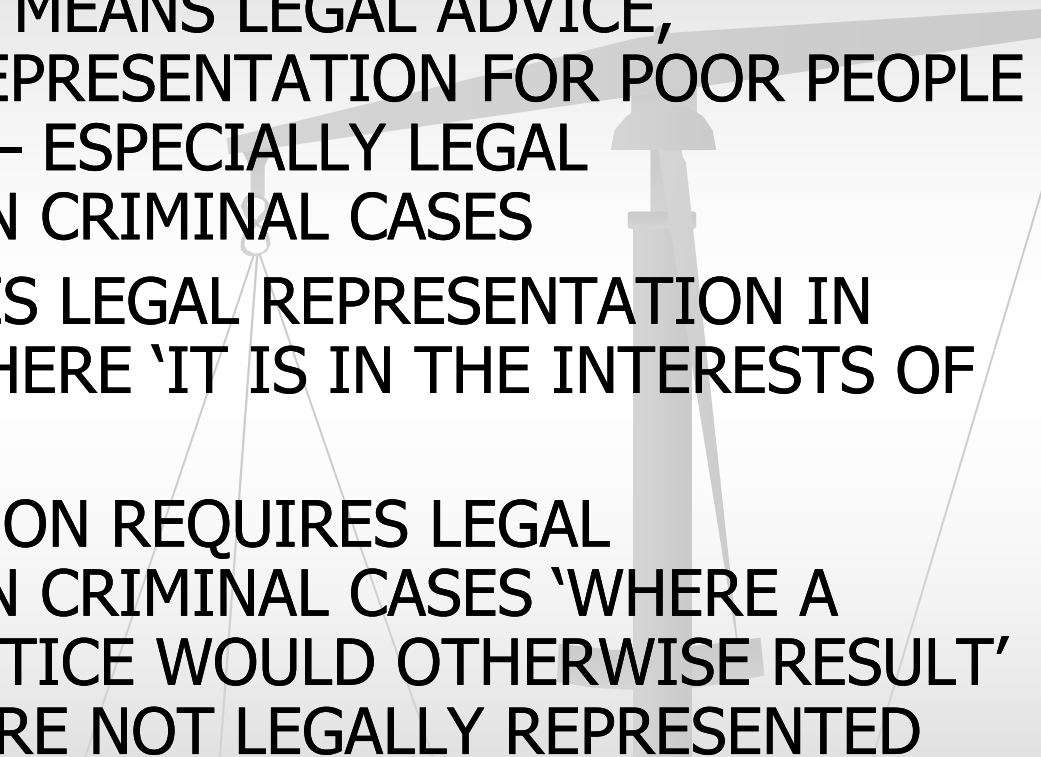
- ENCOURAGING THE COURTS TO GIVE DUE CONSIDERATION TO THE INTERESTS OF THE POOR
- SUPPORT MECHANISMS FOR ALTERNATIVE DISPUTE RESOLUTION
- FOSTERING AND INSTITUTIONALISING ACCESS TO LEGAL SERVICES SO THAT THE POOR WILL KNOW ABOUT LAWS AND BE ABLE TO TAKE ADVANTAGE OF THEM [E.G. LEGAL AID]
- SUPPORTING CONCRETE MEASURES FOR THE LEGAL EMPOWERMENT OF WOMEN, MINORITIES, REFUGEE AND INTERNALLY DISPLACED AND INDIGENOUS PERSONS



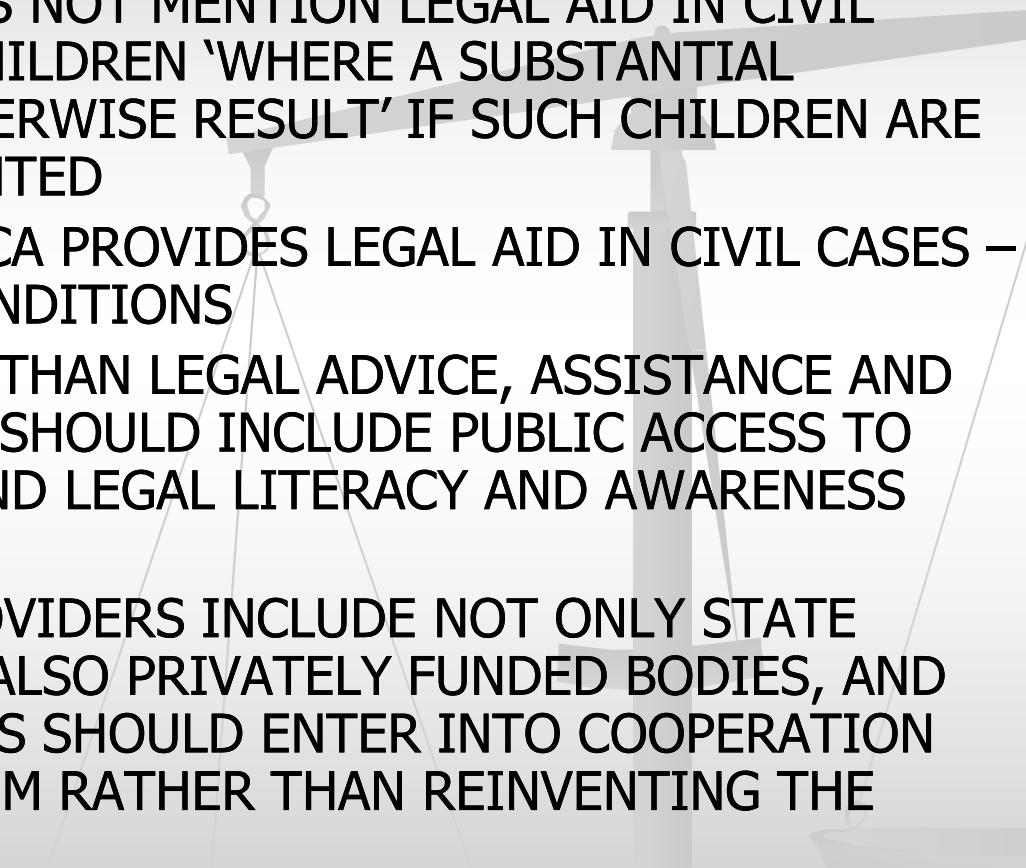
## IMPACT ON INTERNATIONAL DONOR FUNDING

- AT INTERGOVERNMENTAL DONOR MEETINGS IN EARLY 2010 SOME OF THE DONORS HAVE INDICATED THAT THEY WILL CHANGE THEIR FUNDING EMPHASIS IN RESPECT OF ACCESS TO JUSTICE TO FOCUS ON LEGAL EMPOWERMENT OF THE POOR
  - THUS SOME OF THE DONORS WORKING IN THE JUSTICE SECTOR ARE SHIFTING THEIR FUNDING TO FOCUS ON LEGAL EMPOWERMENT OF THE POOR IN RESPECT OF SECURITY AND JUSTICE
  - MEMBERS OF THE UN WILL BE REQUIRED TO REPORT BACK ON WHAT THEY HAVE DONE TO EMPOWER THE POOR THROUGH ACCESS TO JUSTICE AND THE RULE OF LAW
  - GOVERNMENTS WILL NEED TO BE IN A POSITION TO DESCRIBE THE INITIATIVES THEY HAVE TAKEN IN RESPECT OF THE RULE OF LAW
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## WHAT IS MEANT BY LEGAL AID?

- LEGAL AID USUALLY MEANS LEGAL ADVICE, ASSISTANCE AND REPRESENTATION FOR POOR PEOPLE AT STATE EXPENSE – ESPECIALLY LEGAL REPRESENTATION IN CRIMINAL CASES
  - THE ICCPR REQUIRES LEGAL REPRESENTATION IN CRIMINAL CASES WHERE 'IT IS IN THE INTERESTS OF JUSTICE'
  - THE SA CONSTITUTION REQUIRES LEGAL REPRESENTATION IN CRIMINAL CASES 'WHERE A SUBSTANTIAL INJUSTICE WOULD OTHERWISE RESULT' IF SUCH PERSONS ARE NOT LEGALLY REPRESENTED
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## WHAT IS MEANT BY LEGAL AID? (CONTINUED)

- SA CONSTITUTION DOES NOT MENTION LEGAL AID IN CIVIL CASES – EXCEPT FOR CHILDREN ‘WHERE A SUBSTANTIAL INJUSTICE WOULD OTHERWISE RESULT’ IF SUCH CHILDREN ARE NOT LEGALLY REPRESENTED
  - LEGAL AID SOUTH AFRICA PROVIDES LEGAL AID IN CIVIL CASES – UNDER RESTRICTED CONDITIONS
  - LEGAL AID IS BROADER THAN LEGAL ADVICE, ASSISTANCE AND REPRESENTATION, AND SHOULD INCLUDE PUBLIC ACCESS TO LEGAL INFORMATION AND LEGAL LITERACY AND AWARENESS TRAINING
  - LEGAL AID SERVICE PROVIDERS INCLUDE NOT ONLY STATE FUNDED ENTITIES BUT ALSO PRIVATELY FUNDED BODIES, AND STATE-FUNDED ENTITIES SHOULD ENTER INTO COOPERATION AGREEMENTS WITH THEM RATHER THAN REINVENTING THE WHEEL
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# WHAT ARE AFFORDABLE LEGAL AID SERVICES?

- THERE IS NO INTERNATIONAL FORMULA FOR CALCULATING WHAT ARE AFFORDABLE LEGAL AID SERVICES
  - DURING 2010-2011 SOUTH AFRICA SPENT ABOUT US\$2. PER CAPITA OF ITS 50 MILLION PEOPLE ON LEGAL AID
  - THE EXPENDITURE ON LEGAL AID BY THE SOUTH AFRICAN PARLIAMENT IS EQUIVALENT TO ABOUT 10% OF THE DEPARTMENT OF JUSTICE BUDGET WHICH COVERS THE COURTS AND PROSECUTION SERVICES
  - DURING 2003-2004 ON CIVIL AND CRIMINAL LEGAL AID:
    - SOUTH AFRICA SPENT US\$1.2 PER CAPITA
    - THE UK SPENT ABOUT US\$60 PER CAPITA
    - CANADA ABOUT US\$30 PER CAPITA
    - THE USA ABOUT US\$15 PER CAPITA
- [NOTE: THE AMOUNTS IN THE COUNTRIES OTHER THAN SOUTH AFRICA MAY SINCE HAVE BEEN REDUCED]

# WHAT ARE AFFORDABLE LEGAL AID SERVICES? (CONTINUED)

- IN THE LIGHT OF THE SOUTH AFRICAN EXPERIENCE IT IS SUGGESTED THAT INDICATORS FOR AFFORDABLE LEGAL AID SERVICES, INCLUDE THE FOLLOWING:
  - 1. MAKE THE BEST USE OF AVAILABLE RESOURCES, LAWYERS, LAW GRADUATES, LAW STUDENTS AND PARALEGALS
  - 2. IDENTIFY EXISTING SOURCES OF LEGAL AID (E.G. NGOS) – FILL IN THE GAPS THROUGH COOPERATION AGREEMENTS DO NOT DUPLICATE
  - 3. ENSURE MOST LEGAL AID FUNDING IS SPENT ON DELIVERING SERVICES – NOT FOR SUPPORT SERVICES OR GOVERNING BOARD COSTS
  - 4. MEMBERS OF GOVERNING BOARDS SHOULD NOT BE PAID A SALARY – ONLY A 'SITTING ALLOWANCE'
  - 5. USE COOPERATION AGREEMENTS BETWEEN NATIONAL LEGAL AID BODIES AND NGOS
  - 6. LIAZE WITH BAR ASSOCIATION TO ENCOURAGE PRO BONO COOPERATION WITH LEGAL AID

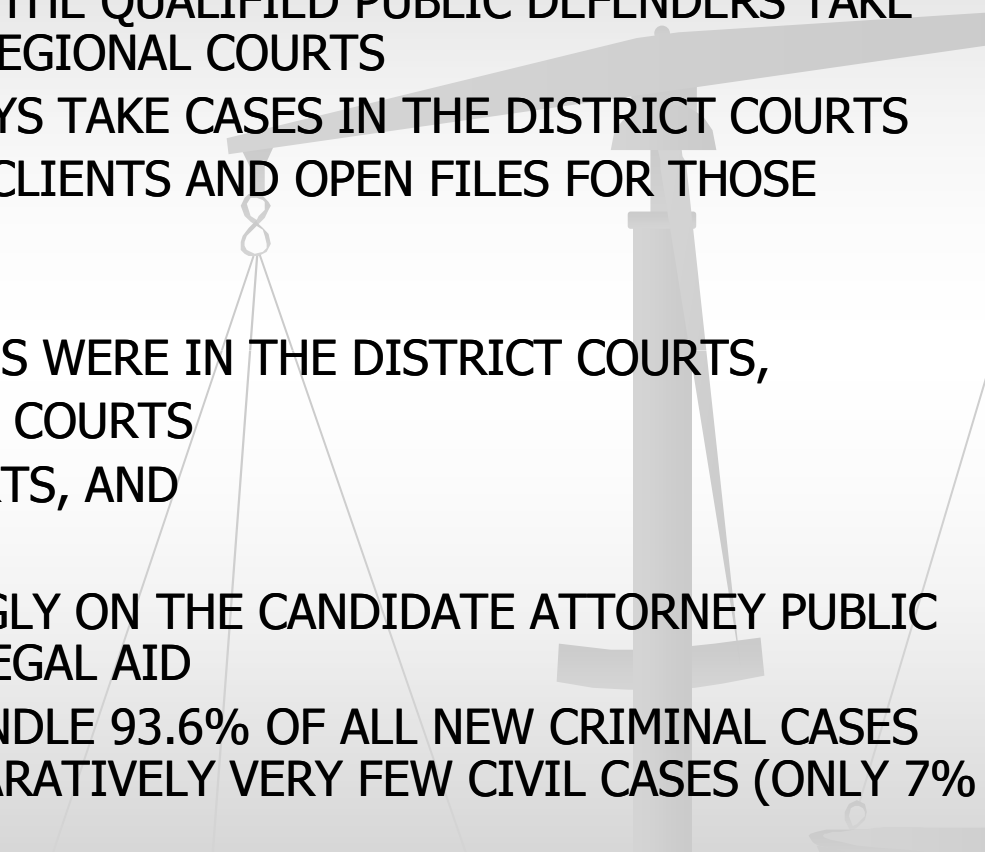
# DELIVERING LEGAL AID SERVICES THROUGH 'ONE STOP SHOP' JUSTICE CENTRES

- LEGAL AID SOUTH AFRICA (LASA) IS THE STATE-FUNDED INDEPENDENT NATIONAL LEGAL AID BODY ACCOUNTABLE TO PARLIAMENT THROUGH THE MINISTER OF JUSTICE
- LASA RELIES PRIMARILY ON 64 JUSTICE CENTRES AND 64 SATELLITE OFFICES TO DELIVER LEGAL AID
- SOUTH AFRICA HAS ONE OF MOST DEVELOPED LEGAL AID SYSTEMS IN THE DEVELOPING WORLD AS IT COVERS 50-60% OF ALL DISTRICT COURT CRIMINAL CASES, 70-80% OF ALL REGIONAL COURT CRIMINAL CASES AND 95% OF ALL HIGH COURT CRIMINAL CASES
- LASA EMPLOYS QUALIFIED PUBLIC DEFENDERS, CANDIDATE ATTORNEY PUBLIC DEFENDERS AND PARALEGALS
- WHERE LASA CANNOT HANDLE A CASE BECAUSE OF A CONFLICT OF INTEREST OR BECAUSE IT DOES NOT HAVE THE PERSONNEL OR EXPERTISE IT USES JUDICARE REFERRALS TO PRIVATE LAWYERS OR ENTERS INTO COOPERATION AGREEMENTS WITH PUBLIC INTEREST LAW FIRMS, UNIVERSITY LAW CLINICS AND PARALEGAL NGOS

# DELIVERING LEGAL AID SERVICES THROUGH 'ONE STOP SHOP' JUSTICE CENTRES (CONTINUED)

- LASA CONDUCTED A PILOT PUBLIC DEFENDER PROJECT IN THE MID-1990S BEFORE ABANDONING JUDICARE, AND FOUND THAT THE COST PER CASE DEALT WITH BY IN-HOUSE SALARIED LAWYERS WAS ABOUT ONE THIRD CHEAPER THAN THE JUDICARE COST
- AT THE SAME TIME LASA ALSO CONDUCTED A PILOT PROJECT ON USING CANDIDATE ATTORNEYS, (WHO ARE REQUIRED TO DO AN APPRENTICESHIP BEFORE QUALIFYING) AS PUBLIC DEFENDERS IN THE DISTRICT COURTS, AND FOUND THAT THEY COST LESS THAN HALF WHAT JUDICARE LAWYERS COST
- PROVIDED CANDIDATE ATTORNEYS ARE PROPERLY TRAINED, THE PRESIDING JUDICIAL OFFICERS FELT THAT THEY HANDLED CASES IN THE DISTRICT COURTS AS WELL AS QUALIFIED LAWYERS
- IN 2001 LASA DECIDED TO INCORPORATE THE PUBLIC DEFENDERS AND CANDIDATE ATTORNEY PUBLIC DEFENDERS, PARALEGALS AND SUPPORT STAFF INTO JUSTICE CENTRES IN ORDER TO PROVIDE A 'ONE STOP SHOP' FOR LEGAL AID APPLICANTS

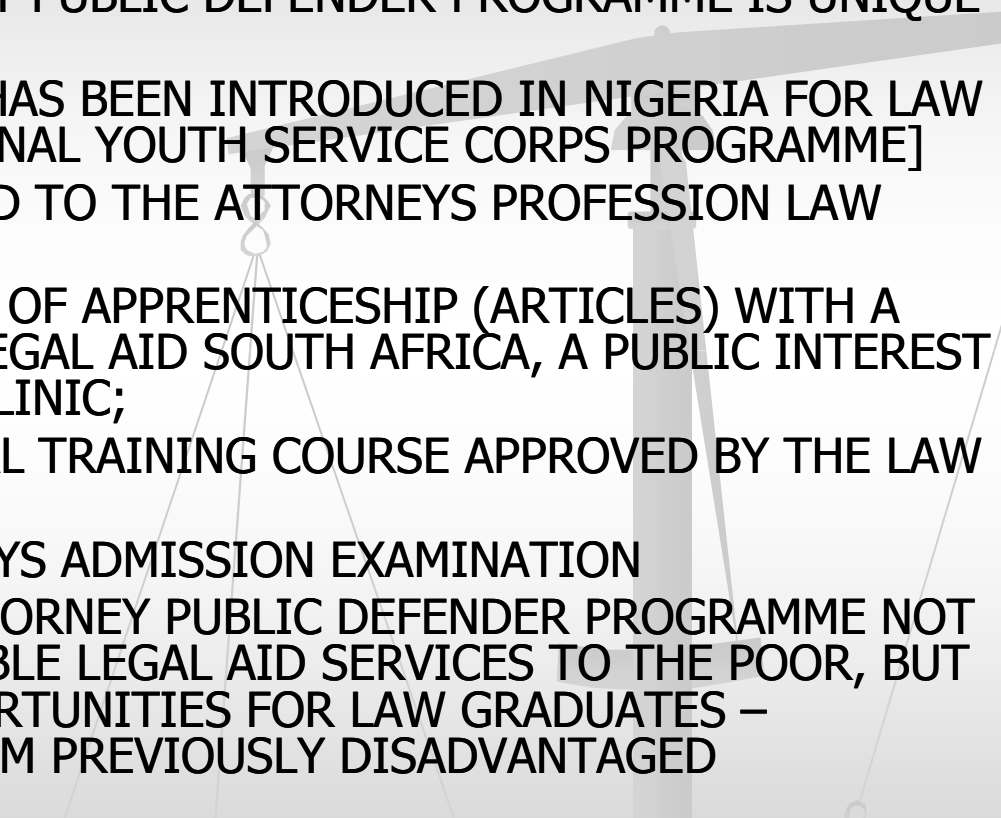
# DELIVERING LEGAL AID SERVICES THROUGH 'ONE STOP SHOP' JUSTICE CENTRES (CONTINUED)

- IN THE JUSTICE CENTRES, THE QUALIFIED PUBLIC DEFENDERS TAKE CASES IN THE HIGH AND REGIONAL COURTS
  - THE CANDIDATE ATTORNEYS TAKE CASES IN THE DISTRICT COURTS
  - THE PARALEGALS SCREEN CLIENTS AND OPEN FILES FOR THOSE ACCEPTED FOR LEGAL AID
  - DURING 2009-2010:
    - 75% OF ALL NEW CASES WERE IN THE DISTRICT COURTS,
    - 16% IN THE REGIONAL COURTS
    - 2% IN THE HIGH COURTS, AND
    - 6% IN OTHER COURTS
  - LASA RELIES VERY STRONGLY ON THE CANDIDATE ATTORNEY PUBLIC DEFENDERS TO DELIVER LEGAL AID
  - THE JUSTICE CENTRES HANDLE 93.6% OF ALL NEW CRIMINAL CASES AND 86.8% OF THE COMPARATIVELY VERY FEW CIVIL CASES (ONLY 7% OF ALL CASES ARE CIVIL)
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# DELIVERING LEGAL AID SERVICES THROUGH 'ONE STOP SHOP' JUSTICE CENTRES (CONTINUED)

- IN THE SMALLER TOWNS IN RURAL AREAS WHERE IT DOES NOT JUSTIFY ESTABLISHING FULLY FLEDGED JUSTICE CENTRES LASA HAS SET UP SATELLITE OFFICES
- SATELLITE OFFICES, (DEPENDING ON DEMAND) ARE USUALLY STAFFED BY A COUPLE OF PARALEGALS, A QUALIFIED PUBLIC DEFENDER AND A COUPLE OF CANDIDATE ATTORNEY PUBLIC DEFENDERS – AS OPPOSED TO THE JUSTICE CENTRES THAT MAY HAVE MORE THAN 20 PUBLIC DEFENDERS AND CANDIDATE ATTORNEY PUBLIC DEFENDERS IN THE LARGER CITIES AND TOWNS
- ALTHOUGH THE SALARIED STAFF OF THE SATELLITE OFFICES WORK IN THEIR OFFICE THEY ARE DIRECTLY UNDER THE CONTROL OF THE NEAREST JUSTICE CENTRE
- WHERE TOWNS OR VILLAGES ARE TOO SMALL TO JUSTIFY A SATELLITE OFFICE IT MAY BE NECESSARY FOR LASA TO HAVE A COOPERATION AGREEMENT WITH A LOCAL LAWYER OR PARALEGAL ADVICE OFFICE OR OTHER NGO

# DELIVERING LEGAL AID SERVICES THROUGH JUSTICE CENTRES USING CANDIDATE ATTORNEYS

- THE CANDIDATE ATTORNEY PUBLIC DEFENDER PROGRAMME IS UNIQUE TO SOUTH AFRICA
  - [NOTE: A PILOT PROJECT HAS BEEN INTRODUCED IN NIGERIA FOR LAW GRADUATES IN THE NATIONAL YOUTH SERVICE CORPS PROGRAMME]
  - IN ORDER TO BE ADMITTED TO THE ATTORNEYS PROFESSION LAW GRADUATES HAVE TO:
    - 1. UNDERGO A PERIOD OF APPRENTICESHIP (ARTICLES) WITH A PRIVATE ATTORNEY, LEGAL AID SOUTH AFRICA, A PUBLIC INTEREST LAW FIRM OR A LAW CLINIC;
    - 2. ATTEND A PRACTICAL TRAINING COURSE APPROVED BY THE LAW SOCIETY;
    - 3. WRITE AN ATTORNEYS ADMISSION EXAMINATION
  - THUS THE CANDIDATE ATTORNEY PUBLIC DEFENDER PROGRAMME NOT ONLY PROVIDES AFFORDABLE LEGAL AID SERVICES TO THE POOR, BUT ALSO PROVIDES JOB OPPORTUNITIES FOR LAW GRADUATES – PARTICULARLY THOSE FROM PREVIOUSLY DISADVANTAGED BACKGROUNDS
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# OTHER METHODS OF DELIVERING LEGAL AID SERVICES

- OTHER METHODS OF DELIVERING LEGAL SERVICES BY LEGAL AID SOUTH AFRICA ARE:
- JUDICARE REFERRALS TO PRIVATE LAWYERS ACCOUNT FOR ONLY 6% OF CASES
  - UNTIL DEMOCRACY JUDICARE WAS THE MAIN METHOD OF DELIVERING LEGAL AID
  - THE IMPACT OF THE NEW CONSTITUTION NEARLY BANKRUPT THE THEN LEGAL AID BOARD (NOW LASA)
- IMPACT LITIGATION ACCOUNTS FOR ONLY 1% OF CASES
  - MAINLY LAND AND LABOUR ISSUES
  - OFTEN FARMED OUT TO PUBLIC INTEREST LAW FIRMS
- COOPERATION AGREEMENTS WITH NGOS ACCOUNT FOR 1% OF CASES
  - MAINLY WITH LAW CLINICS AND PARALEGAL OFFICES
- ESTABLISHMENT OF A LEGAL AID ADVICE LINE
  - STAFFED BY PARALEGALS UNDER THE SUPERVISION OF QUALIFIED LAWYERS

# ROLE OF PARALEGALS IN PROVIDING AFFORDABLE LEGAL SERVICES

- PARALEGALS INTERFACE DIRECTLY WITH COMMUNITIES AND ARE A VALUABLE LINK BETWEEN THEIR COMMUNITIES AND LEGAL AID SERVICE PROVIDERS
- PARALEGALS NOT ONLY GIVE LEGAL ADVICE AND ASSISTANCE BUT ALSO CONDUCT LEGAL LITERACY AND AWARENESS TRAINING
- MOST PARALEGALS IN SOUTH AFRICA DO NOT HOLD FORMAL QUALIFICATIONS BUT USUALLY ATTENDED TRAINING COURSES – A FEW HAVE DIPLOMAS FROM UNIVERSITIES
- SOME PARALEGAL ADVICE OFFICES IN SOUTH AFRICA HAVE FORMAL BACK UP ARRANGEMENTS WITH ORGANIZATIONS SUCH AS LEGAL AID SOUTH AFRICA, THE ASSOCIATION OF UNIVERSITY LEGAL AID INSTITUTIONS AND LAWYERS FOR HUMAN RIGHTS
- OTHER OFFICES HAVE THEIR OWN NETWORKS OF OFFICES SUCH AS THE BLACK SASH, THE COMMUNITY LAW AND RURAL DEVELOPMENT CENTRE, THE ASSOCIATION FOR RURAL DEVELOPMENT AND THE TREATMENT ACTION CAMPAIGN

# ROLE OF PARALEGALS IN PROVIDING IN PROVIDING AFFORDABLE LEGAL SERVICES (CONTINUED)

- MOST PARALEGAL ADVICE OFFICES OFFER LEGAL ADVICE AND ASSISTANCE AND DO SOME LEGAL LITERACY AND AWARENESS TRAINING
- IN MANY CASES THE PARALEGALS CAN SOLVE THE PROBLEMS – OTHERWISE THEY REFER CLIENTS TO LEGAL AID SOUTH AFRICA, A UNIVERSITY LAW CLINIC OR A PUBLIC INTEREST LAW FIRM
- PARALEGALS ARE EMPLOYED BY LEGAL AID SOUTH AFRICA IN THE JUSTICE CENTRES AND SATELLITE OFFICES AND IN THE LEGAL AID ADVICE LINE PROGRAMME
- THE AULAI TRUST ACTS AS A FUNDING CONDUIT FOR CLOSELY MONITORED PARALEGAL PROGRAMMES WHEREBY UNIVERSITY LAW CLINICS PROVIDE BACK-UP AND TRAINING FOR CLUSTERS OF ADVICE OFFICES IN THEIR REGIONS
- A NATIONAL ASSOCIATION FOR THE DEVELOPMENT OF COMMUNITY ADVICE OFFICES (NADCAO) HAS BEEN FORMED WHICH HAS CLOSE LINKS WITH THE ASSOCIATION OF UNIVERSITY LEGAL AID INSTITUTIONS (AULAI) AND HAS RECENTLY ENTERED INTO A COOPERATION AGREEMENT WITH LEGAL AID SOUTH AFRICA

# ROLE OF PARALEGALS IN PROVIDING LEGAL ADVICE AND ASSISTANCE



- THE MAJORITY OF PARALEGALS IN SOUTH AFRICA ARE PROBABLY EMPLOYED IN THE PRIVATE SECTOR
- THERE IS SCOPE FOR LEGAL AID SOUTH AFRICA TO EXPAND ITS USE OF PARALEGALS BEYOND THE JUSTICE CENTRES AND SATELLITE OFFICES TO INCLUDE THE TRADITIONAL CHIEFS' OFFICES IN DEEP RURAL AREAS - AS HAS BEEN PROPOSED FOR SIERRA LEONE
- EXAMPLES OF PARALEGAL ADVICE OFFICES THAT GIVE LEGAL ADVICE AND ASSISTANCE ARE:
  - THE COMMUNITY LAW AND RURAL DEVELOPMENT CENTRE
  - THE BLACK SASH
  - THE TREATMENT ACTION CAMPAIGN
  - THE ASSOCIATION FOR RURAL ADVANCEMENT

## LEGAL ADVICE AND ASSISTANCE: COMMUNITY LAW AND RURAL DEVELOPMENT CENTRE (CLRDC):

- THE CLRDC REQUIRES PARTICIPATING RURAL COMMUNITIES TO ELECT A PARALEGAL COMMITTEE
- THE PARALEGAL COMMITTEE SELECTS TWO PARALEGALS TO BE SENT TO THE CITY ON A TRAINING COURSE – THE PARALEGALS MUST COMMIT TO RETURNING TO THEIR COMMUNITIES
- THE 2 PARALEGALS WHO RECEIVE TRAINING RETURN TO LIVE IN THE COMMUNITY AND COMPLETE THEIR TRAINING ON AN IN-SERVICE BASIS WHILE WORKING IN THE COMMUNITY
- PARALEGALS GIVE LEGAL ADVICE AND ASSISTANCE AND DO LEGAL LITERACY AND AWARENESS TRAINING
- CLRDC HAS 30 ADVICE OFFICES IN KWAZULU-NATAL DEALING WITH CUSTOMARY LAW DISPUTES, PENSIONS, LABOUR, FAMILY, HOUSING, MAINTENANCE AND HIV/AIDS
- DURING 2009 CLRDC COLLECTED ZAR3 MILLION (US\$428 471) FOR CLIENTS, AND IN 2010 ZAR5.5 MILLION (US\$668 029)
- CLRDC PARALEGALS ARE BACKED UP BY PRO BONO LAWYERS, LEGAL AID SOUTH AFRICA AND LAW CLINICS

# LEGAL ADVICE AND ASSISTANCE: BLACK SASH

- BLACK SASH IS THE PRE-EMINENT PARALEGAL ADVICE OFFICE NETWORK IN SOUTH AFRICA - ESTABLISHED IN 1950s
- BLACK SASH HAS BRANCH OFFICES IN ALL 9 PROVINCES OF THE COUNTRY IN MAIN CITIES AND TOWNS
- BLACK SASH PRODUCES THE EXCELLENT *PARALEGAL MANUAL* AVAILABLE AT: [WWW.BLACKSASH.ORG.CO.ZA](http://WWW.BLACKSASH.ORG.CO.ZA)
- DURING 2008-2010 BLACK SASH DEALT WITH OVER 40 000 (ABOUT 20 000 NEW AND 20 000 COMPLETED) WHICH INVOLVED PRIVATE PENSIONS (24%), SOCIAL ASSISTANCE (21%), LABOUR ISSUES (22.5%), SOCIAL INSURANCE (35.55%) AND CONSUMER ISSUES (6.6%)
- DURING 2008-2010 BLACK SASH RECOVERED ZAR21.2 MILLION (US\$2.7 MILLION) FOR CLIENTS
- BLACK SASH ALSO DOES LEGAL LITERACY AND AWARENESS TRAINING

# LEGAL ADVICE AND ASSISTANCE: TREATMENT ACTION CAMPAIGN (TAC)

- TAC WAS ESTABLISHED IN 1998 TO ADVOCATE FOR THE PROVISION OF ANTIRETROVIRAL TREATMENT FOR HIV POSITIVE MOTHERS AND THEIR NEW BORN BABIES TO PREVENT THE SPREAD OF HIV
- TAC USED LOBBYING, MEETINGS, RALLIES AND PETITIONS TO PERSUADE THE GOVERNMENT, (WHICH WAS THEN IN DENIAL THAT HIV CAUSED AIDS), TO MAKE ANTIRETROVIRAL DRUGS AVAILABLE TO HIV POSITIVE MOTHERS AND NEW BORN
- TAC ALSO SUCCESSFULLY LOBBIED PHARMACEUTICAL COMPANIES TO MAKE DRUGS MUCH CHEAPER AND AVAILABLE FOR PREGNANT MOTHERS AND BABIES
- GOVERNMENT HAD MADE DRUG 'NEVARIPINE' ONLY AVAILABLE AT 18 TEST SITES AND 70 000 BABIES A YEAR, (OUT OF 210 000 BORN TO HIV POSITIVE MOTHERS), WERE BECOMING INFECTED WITH HIV
- TAC TOOK THE GOVERNMENT TO COURT – EVENTUALLY THE CONSTITUTIONAL COURT ORDERED THE GOVERNMENT TO MAKE THE DRUG AVAILABLE IN ALL HOSPITALS AND CLINICS: *MINISTER OF HEALTH v TREATMENT ACTION CAMPAIGN* 2002 (5) SA 721 (CC)

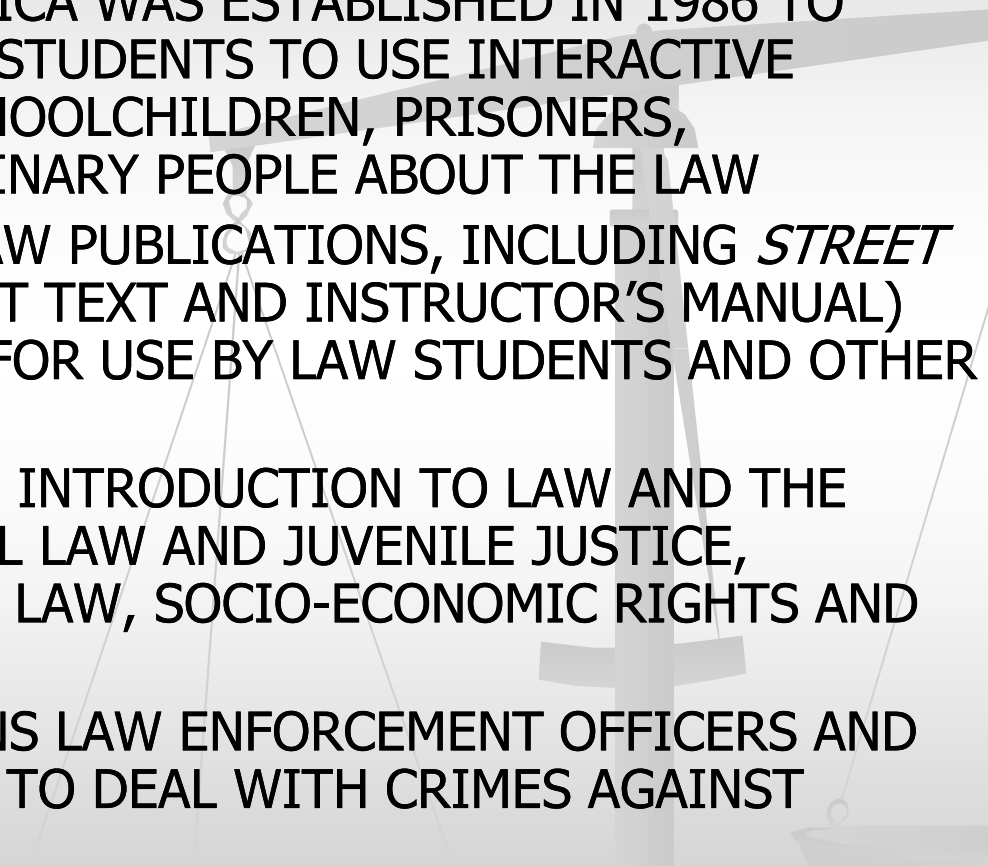
## LEGAL ADVICE AND ASSISTANCE: ASSOCIATION FOR RURAL ADVANCEMENT (AFRA)

- AFRA WAS ESTABLISHED TO REDRESS INJUSTICES OF THE PAST WHEN APARTHEID GOVERNMENTS CONFISCATED LAND FROM BLACKS AND SOLD IT TO WHITES
- AFRA ALSO ENCOURAGE SUSTAINABLE AGRICULTURAL DEVELOPMENT AND LOBBIES GOVERNMENT
- AFRA IS AIMED AT LIBERATING FARM WORKERS AND FARM DWELLERS FROM POVERTY, LANDLESSNESS AND EXPLOITATION
- AFRA OFFERS LEGAL ASSISTANCE THROUGH STRATEGIC LITIGATION, AND LEGAL ADVICE ON ISSUES SUCH AS ACCESS TO LAND, ACCESS TO FARM ROADS, CLEAN WATER, OBTAINING IDENTITY DOCUMENTS FOR SOCIAL ASSISTANCE TO HIV/AIDS ORPHANS AND YOUNG MOTHERS
- AFRA ALSO DOES LEGAL LITERACY AND AWARENESS TRAINING

# ROLE OF PARALEGALS IN PROVIDING LEGAL LITERACY AND AWARENESS TRAINING

- MOST PARALEGAL ADVICE OFFICES IN SOUTH AFRICA ENGAGE IN LEGAL LITERACY AND AWARENESS TRAINING
- LEGAL AID SOUTH AFRICA USES PARALEGALS TO VISIT PRISONS AND COMMUNITIES TO ADVERTISE LEGAL AID AND CONDUCT LEGAL LITERACY AND AWARENESS TRAINING
- RESEARCH HAS SHOWN THAT LITIGATION ON BEHALF OF COMMUNITIES WILL NOT BE EFFECTIVE UNLESS IT IS LINKED TO PUBLIC INFORMATION CAMPAIGNS TO ACHIEVE RIGHTS AWARENESS (SEE E.G. RSA AND THE PHILIPPINES)
- ORGANISATIONS THAT DO LEGAL LITERACY AND AWARENESS TRAINING ARE:
  - STREET LAW SOUTH AFRICA
  - BLACK SASH
  - COMMUNITY LAW AND RURAL DEVELOPMENT CENTRE
  - ASSOCIATION FOR RURAL ADVANCEMENT

# LEGAL LITERACY AND AWARENESS TRAINING: STREET LAW SOUTH AFRICA

- STREET LAW SOUTH AFRICA WAS ESTABLISHED IN 1986 TO TRAIN UNIVERSITY LAW STUDENTS TO USE INTERACTIVE METHODS TO TEACH SCHOOLCHILDREN, PRISONERS, COMMUNITIES AND ORDINARY PEOPLE ABOUT THE LAW
  - A NUMBER OF STREET LAW PUBLICATIONS, INCLUDING *STREET LAW MANUALS* (STUDENT TEXT AND INSTRUCTOR'S MANUAL) HAVE BEEN DEVELOPED FOR USE BY LAW STUDENTS AND OTHER EDUCATORS
  - THE MANUALS COVER AN INTRODUCTION TO LAW AND THE LEGAL SYSTEM, CRIMINAL LAW AND JUVENILE JUSTICE, CONSUMER LAW, FAMILY LAW, SOCIO-ECONOMIC RIGHTS AND EMPLOYMENT LAW.
  - STREET LAW ALSO TRAINS LAW ENFORCEMENT OFFICERS AND HEALTH OFFICIALS HOW TO DEAL WITH CRIMES AGAINST WOMEN AND CHILDREN
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# LEGAL LITERACY AND AWARENESS TRAINING: BLACK SASH

- BLACK SASH HAS AN EXTENSIVE LAW-RELATED EDUCATION PROGRAMME THAT USES WORKSHOPS, RADIO PROGRAMMES, PUBLICATIONS, PARALEGAL TRAINING GUIDES AND NEWSLETTERS
- THE LEGAL LITERACY AND AWARENESS PROGRAMMES FOCUS ON SOCIAL GRANTS, DEBT COUNSELLING, XENOPHOBIA AND UNEMPLOYMENT INSURANCE
- DURING 2008 THE BLACK SASH REACHED OVER 86 MILLION LISTENERS WITH ITS RADION PROGRAMMES
- DURING 2009-2010 THE BLACK SASH RECEIVED 85 468 VISITS TO ITS WEBSITE AND DISTRIBUTED 59 890 COPIES OF LAW-RELATED MATERIALS

# LEGAL LITERACY AND AWARENESS TRAINING: ASSOCIATION FOR RURAL ADVANCEMENT (AFRA)

- AFRA WORKS IN THE RURAL AREAS WHERE THE LOCAL POPULATION IS RULED BY TRADITIONAL LEADERS (SUCH AS CHIEFS) WHO NEED TO UNDERSTAND ABOUT DEMOCRACY
- AFRA ALSO DOES RIGHTS-BASED EDUCATION ON LAND REFORM AND HOW TO ACCESS STATE RESOURCES IN THE FIELD OF SOCIO-ECONOMIC RIGHTS
- IN ADDITION TO PROMOTING SUSTAINABILITY AFRA ENGAGES IN NON-LEGAL SKILLS TRAINING ON NUTRITION, WATER HARVESTING, CONTOUR PLANTING AND THE USE OF TRENCH BEDS FOR AGRICULTURE
- MORE RECENTLY AFRA HAS BEEN ASKED TO PROVIDE TRAINING ON CANDLE MAKING, HOMESTEAD CROPPING, SMALL-SCALE CHICKEN FARMING AND CO-OPERATIVES

# LEGAL LITERACY AND AWARENESS TRAINING: COMMUNITY LAW AND RURAL DEVELOPMENT CENTRE (CLRDC)

- THE CLRDC PARALEGALS WHO UNDERGO TRAINING IN PARALEGAL STUDIES ARE REQUIRED TO PRESENT LAW-RELATED EDUCATION WORKSHOPS IN THE COMMUNITIES WHERE THEY LIVE
- THE WORKSHOPS COVER SUCH ISSUES AS SOCIAL ASSISTANCE GRANTS AND PENSIONS, CUSTOMARY LAW MATTERS, CONSUMER LAW, CRIMINAL JUSTICE MATTERS, LABOUR DISPUTES AND HIV/AIDS AND THE LAW
- DURING 2009 THE CLRDC PARALEGALS CONDUCTED OVER 300 LEGAL LITERACY WORKSHOPS FOR 15 000 RURAL PEOPLE
- DURING 2010 THE PARALEGALS CONDUCTED FEWER WORKSHOPS (182) BUT REACHED MORE PEOPLE (22 260)

# CONCLUSIONS

- FROM THE ABOVE DISCUSSIONS THE FOLLOWING CONCLUSIONS CAN BE DRAWN:
- 1. IF COUNTRIES WISH TO ATTRACT INTERNATIONAL DONOR FUNDING AND FOREIGN INVESTMENT THEY NEED TO IMPLEMENT THE RECOMMENDATIONS OF THE UN COMMISSION ON LEGAL EMPOWERMENT OF THE POOR AND REPORT BACK TO THE UN ON WHAT THEY HAVE DONE
- 2. LEGAL AID GOES BEYOND LEGAL ADVICE, ASSISTANCE AND REPRESENTATION – IT ALSO INCLUDES LEGAL LITERACY AND AWARENESS TRAINING AS REQUIRED BY THE UN COMMISSION
- 3. AFFORDABLE LEGAL AID MEANS MAKING USE OF ALL AVAILABLE RESOURCES TO DELIVER LEGAL AID SERVICES – LAWYERS, LAW GRADUATES, LAW STUDENTS AND PARALEGALS
- 4. LEGAL AID DELIVERED THROUGH 'ONE STOP SHOP' JUSTICE CENTRES AND SATELLITE OFFICES IS CHEAPER THAN JUDICARE REFERRALS TO PRIVATE LAWYERS
- 5. LEGAL AID JUSTICE CENTRES EMPLOY SALARIED PUBLIC DEFENDERS, CANDIDATE ATTORNEY PUBLIC DEFENDERS AND PARALEGALS WHO PRIMARILY DO CRIMINAL CASES BUT ALSO SOME CIVIL CASES

## CONCLUSIONS (CONTINUED)

- 6. LEGAL AID SOUTH AFRICA USES A MIXED SYSTEM OF DELIVERING LEGAL AID SERVICES IN ADDITION TO JUSTICE CENTRES, BY ENTERING INTO COOPERATION AGREEMENTS WITH NON-STATE-FUNDED ORGANISATIONS SUCH AS PUBLIC INTEREST LAW FIRMS, LAW CLINICS, PARALEGAL ADVICE OFFICES AND OTHER NGOS.
- 7. LEGAL AID SOUTH AFRICA HAS ALSO ESTABLISHED AN IMPACT LITIGATION UNIT AND A LEGAL AID ADVICE LINE WITH THE LATTER USING PARALEGALS TO GIVE TELEPHONIC LEGAL ADVICE UNDER THE SUPERVISION OF LAWYERS
- 8. PARALEGALS IN SOUTH AFRICA PROVIDE LEGAL AID IN THE BROAD SENSE BY GIVING LEGAL ADVICE AND ASSISTANCE AND TEACHING LEGAL LITERACY AND AWARENESS
- 9. PARALEGALS ARE PARTICULARLY WELL SUITED TO ADVISE, ASSIST AND EDUCATE RURAL COMMUNITIES
- [NOTE: IN ADDITION TO AFFORDABLE, LEGAL AID SERVICES SHOULD BE ACCESSIBLE, ACCOUNTABLE, SUSTAINABLE AND CREDIBLE]